

### **REMARKS**

The examiner's reconsideration of the application is requested in view of the amendments above and comments which follow:

To ease the review of the application somewhat and to adopt the allowable subject matter as indicated by the examiner, a new claim set has been set forth above. The following claims table identifies the new claims and their relationships with the former, now-cancelled claims:

<u>Claims Table</u>	
<u>New Claim</u>	<u>Former Claim(s)</u>
40	21 + 27 + 29
41	21 + 27 + 30
42	21 + 27 + 31
43	21 + 27 + 32
44	21 + 27 + 33
45	21 + 27 + 34
46	28
47	22
48	23
49	24
50	25
51	26
52	35
53	36
54	38
55	21 (cancelled)

It is believed that new claims 40 through 54 are in allowable form, as claims 40 through 45 adopt the allowable subject matter, and claims 46 through 54 depend from those allowable claims. The only claim, therefore, requiring further commentary is new claim 55, which corresponds to former claim 21, but as amended as set forth above.

Former claim 21 has been rejected by the examiner under 35 U.S.C. § 102 as being anticipated by newly-cited Waters U.S. Patent Number 6,357,394. Reconsideration is

requested in view of the new form of claim 21 set forth above, as well as the comments which follow below.

U.S. Patent Number 6,357,394 (Waters et al.) appears to have been misunderstood by the examiner and in fact teaches away from forming the cage or item of cage furniture substantially or entirely from a substance which is transparent or translucent to a human observer, but substantially darkened or opaque to the caged rodent.

Waters et al. state (column 4, lines 45-53) that “the top, bottom and sides of the hide box are constructed of an opaque material, such as metal or dark plastic to provide a dark retreat. The front and back of the hide box are preferably a dark red, transparent plastic to provide a measure of isolation to the animal within the hid box while permitting a keeper to check on the condition and behavior of the animal”. (emphasis added).

It is apparent from this that Waters et al. had not appreciated that it is possible to form a cage or an item of cage furniture substantially or entirely from a substance which is transparent or translucent to a human observer, but substantially darkened or opaque to the caged rodent.

On the contrary, Waters et al. believed that it was necessary to form their hide box substantially from an opaque material, such as metal, in order to provide a dark retreat, and that a small portion of the hide box (front and back) could be made from a dark red, transparent plastic to permit a keeper to observe the condition and behavior of the animal. That Waters et al. state that this construction of the hide box can only provide a measure of isolation to the animal shows that they had failed to appreciate that a dark red, transparent plastic can be used to isolate the animal completely, while permitting observation of the animal. That is, the animal is clearly visible to a human observer, but perceives itself to be isolated in a dark retreat.

It is this realization that enables the cage or item of cage furniture of the present invention to be manufactured more cheaply, e.g. moulded entirely from a suitable plastic material, while providing a clearer view of the animal than known cages, and yet still providing the animal with a sense of security.

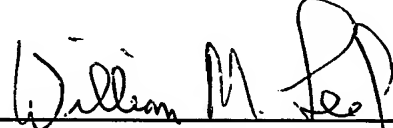
Claim 55 is therefore novel, is not obvious in view of Waters et al. and should therefore be allowed.

Therefore, given the above, the indicated allowability of the subject matter of former claims 29 through 34 is gratefully acknowledged, and new claims 40 through 54 should therefore be in condition for allowance. Also, in view of the comments above, it is submitted that new claim 55 is allowable, as well. The examiners further and favorable reconsideration is therefore urged.

As this response is being submitted during the fourth month following the examiner's office action, an appropriate petition for extension of time is also submitted herewith.

October 4, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William M. Lee, Jr.", is written over a horizontal line.

William M. Lee, Jr.  
Registration No. 26,935  
Barnes & Thornburg LLP  
P.O. Box 2786  
Chicago, Illinois 60690-2786  
(312) 214-4800  
(312) 759-5646 (fax)